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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/089,358	05/13/2002	Horst Berneth	Mo-7059/LeA 33,071	1359
157 7590 05/24/2007 BAYER MATERIAL SCIENCE LLC 100 BAYER ROAD PITTSBURGH, PA 15205			EXAMINER ANGEBRANDT, MARTIN J	
			ART UNIT 1756	PAPER NUMBER
			MAIL DATE 05/24/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/089,358	Applicant(s) BERNETH ET AL.	
	Examiner Martin J. Angebrannt	Art Unit 1756	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 30 April 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: none.
Claim(s) objected to: none.
Claim(s) rejected: 1-5, 7-18 and 29.
Claim(s) withdrawn from consideration: 19-24, 27 and 28.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☒ Other: PTO-892.


Martin J. Angebrannt
Primary Examiner
Art Unit: 1756

Continuation of 3. NOTE: The applicant states that the unit are changed to correct an error. The examiner agrees with respect to 100 J/cm², but not to the 10 J/cm². Page 45 teaches both 10 mJ/cm² and 10 J/cm², but in the case of 10 J/cm² this is an upper limit. This does not appear to be an obvious error as with the unit of the 100mJ/cm², which was identified by the examiner..

Continuation of 11. does NOT place the application in condition for allowance because: As discussed above, the examiner does not consider the units of the 10 mJ/cm², an error to be corrected at this point by the applicant, and so this appears to be an effort by the applicant to change the shift the range of the recited exposure conditions. The examiner also had indicated that if the upper range were corrected as identified in the office action, a number of references withdrawn due to the recited range would be applicable and that some of these could/would be reinstated. Specifically, the examiner points to Kim et al. whose 10 minute exposure at 70 mW/cm² yields a 35 J/cm² exposure and the 300 s exposure at 65 mW/cm² by Hvilsted et al. (Macromol) yields 19.5 J/cm². The examiner also noticed the discussion on page 45 of the use of near field exposure techniques. The examiner considered that this might prove a basis for patentability. On the basis of Davy et al., (Appl. Phys. Lett.,) and Watanabe et al. '680, who evidence the use of this technique with azo dyes. The specification does not prove any data that the 10 nm limit requires more than the lowest levels of exposure disclosed. The claims do not preclude the preexposure and the applicant's analysis fails to appreciate that the linearly polarized laser causes anisotropy from the preexposed condition. The fact that the composition is cast on a glass plate than the upper surface is not further coated undercuts the applicant's argument with regard to surface texturing as the exposure conditions are within the scope of those disclosed in the instant specification as is the composition irradiated. .

Ms
5/21/07